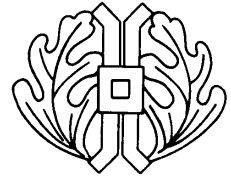


PREVENTIVE LAW SERIES

SMALL CLAIMS COURT



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When most people think of going to court to resolve a dispute, they think of lawyers, paperwork, and high costs. Small Claims Court offers a forum in which a person can cheaply and quickly have a dispute resolved without having to contact a lawyer. The rules of Small Claims Court are not complicated, and the hearing is held in a very informal manner.

JURISDICTION & STATUTES OF LIMITATIONS: CAN YOU TAKE YOUR CASE TO SMALL CLAIMS COURT:

Small Claims Court will hear monetary disputes up to \$5,000.00.

Venue = Generally, the claim must be filed in the proper county [i.e. where the dispute took place, where the defendant(s) (the person you are suing) lives, where the firm does business, or where the accident occurred].

Statutes of Limitations (laws which prohibit cases if the complaint is not filed within a certain period of time) apply in Small Claims Court. Any inaction or delay on your part in filing with the court may affect your rights. You should consult with a Legal Assistance Attorney or small claims advisor immediately to find out how much time you have to file a lawsuit.

FILING: HOW TO GET YOUR CASE INTO SMALL CLAIMS COURT - THE PROCEDURES ARE SIMPLE:

- 1) You must first demand money from the defendant(s). The best method of demand is by letter. You should write a letter to the defendant(s) demanding a specific amount and briefly set forth the reasons for your demand. Keep a copy of the letter for yourself, and send the letter certified mail/return receipt requested. You will use the copy and the return receipt to prove to the judge that you have first demanded the money.
- 2) If the defendant(s) does not make payment, or if you can not reach an agreeable settlement, you must file a complaint. Secure a **Plaintiff's Claim and Order to Defendant** form from the Small Claims Court Clerk. The nearest Small Claims Court office is located at 8950 Claremont Mesa Boulevard. The one-page form is self-explanatory and is very easy to complete. However, **you will need a valid name and address for each defendant.**
- 3) Complete the form and file it with the clerk. The filing fee is \$20.00, plus the cost of notifying the defendant(s).
- 4) The defendant(s) must be legally notified of your claim. This is called "service of process." There are three methods of service of process:
 - a) Service by Certified Mail by the Clerk of the Court;
 - b) Personal Service by someone other than the plaintiff;
 - c) Substituted Service

The technicalities of this step are explained in the forms and by the clerk and/or Small Claims Court Advisor.

- 5) If the defendant(s) lives in the county where you filed, you will likely receive a hearing within forty (40) days of filing the complaint.

THE HEARING:

No attorneys are permitted at the hearing.

Although this is a court of law, Small Claims Court is designed to resolve conflict in a legal and fair manner. This is your chance to convince the judge why you should prevail in your claim.

Bring all relevant documents to support your case. This would include the demand letter to the defendant(s), a contract, bills, cancelled checks, and estimates. Originals are preferred.

You may also bring witnesses on your behalf. If a witness refuses to appear, it is possible to "subpoena," or order, a witness to appear. The clerk and/or Advisor will tell you how to subpoena a witness if needed.

You will also have an opportunity to make a statement to the judge. You may write your statement and read it to the judge. You should keep your statement brief and focus only on relevant topics.

The judge may ask you questions about your case. Whenever answering the judge, be thoughtful and somewhat brief. Always answer the question asked by the judge thoroughly, even if you think it is irrelevant. The judge may be applying laws with which you are not familiar. If you do not understand a question, ask the judge to repeat or rephrase the question.

After the judge has heard all the evidence from both sides, the judge will decide the case.

If you win, either by the judge ruling in your favor, or by the defendant(s) failure to appear, you will obtain a judgment against the defendant(s). The clerk and/or Advisors will instruct you on how to collect the judgment from the defendant(s). Additionally, the Legal Assistance Office has a handout explaining the methods of enforcing your Small Claims Court Judgement.

If you lose, the case is over. Only the defendant(s) has the right to appeal the judge's decision. The Plaintiff's only remedy if the Plaintiff loses is to timely file a motion for reconsideration, if it is substantiated.

Members of the armed forces on active duty who have been assigned to a duty station outside of California after his or her cause of action has accrued (except when the assignment is for a definite period of less than six months) is entitled to waive personal appearance and submit written declarations to serve as evidence supporting the party's claim, or to allow another person (other than an attorney) to appear and participate on his or her behalf. There are some forms and other requirements, which the small claims advisors can explain.

LEGAL ASSISTANCE APPOINTMENTS:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

RESOURCES:

Small Claims Courts:	San Diego: (858) 694-2066	Advisors: (858) 236-2471
	Chula Vista: (619) 691-4766	(858) 236-2700 -recorded info.
	El Cajon: (619) 441-4461	
	Vista: (760) 726-9595	
	Ramona: (760) 738-2435	

Internet: www.sandiego.courts.ca.gov/superior/courts/smallclaims.html

